



Department of Professional and Occupational Regulation

REPORT FROM THE COMMON INTEREST COMMUNITY BOARD | AUGUST 7, 2018

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COMMON INTEREST COMMUNITY BOARD | Ten Years Later

Did you know the Common Interest Community Board celebrated its 10 year anniversary on July 1, 2018? Here is a look at the past 10 years, by the numbers:

48 Board Meetings

25 Board Members

39 Committee Meetings

142 Assigned Legislative Proposals

23 Regulatory Actions

49% Increase in Registered Associations



increased by 49%

WHO WE REGULATE | License/Registration Types

(Number of current regulants as of 7/1/18 in parentheses)

- Common Interest Community (CIC) Managers (185)
 - Certified Principal or Supervisory Employees (296)
 - Training Programs (18)
- Associations (6,299)
 - Condominium Unit Owners', Property Owners', and Cooperatives
- Condominium Projects (232)
- Time-Shares
 - Time-Share Projects (90)
 - Exchange Companies (19)
 - Time-Share Resellers (1)

2018 GENERAL ASSEMBLY | Disclosure Packet/Resale Certificate Changes

During the 2018 General Assembly Session, the legislature passed two bills affecting property owners' association disclosure packets and condominium unit owners' association resale certificates. **House Bill 923** imposes new requirements for the POA Disclosure Packets and Condominium Resale Certificates.

The Property Owners' Association (POA) Act requires that when selling a home in a POA, the owner must provide a potential purchaser with certain legally required information regarding the home, common areas, and the association. The document, called a disclosure packet, is prepared by the association and delivered to the potential purchaser. Prior to July 1, 2018, only a POA had to include a cover sheet prepared by the CIC Board with disclosure packets. Effective July 1st, **condominium resale certificates** must also **include a cover sheet** prepared by the CIC Board. The draft documents were published and public comments solicited. At its Board meeting in June, the Board considered all public comments and adopted the final documents.

Associations are required to use the new documents with all disclosure packets and resale certificates. Please see the Board's webpage at [http://www.dpor.virginia.gov/CIC-Board/Disclosure Notices/](http://www.dpor.virginia.gov/CIC-Board/Disclosure%20Notices/) for both notices.

2018 GENERAL ASSEMBLY | Changes to Fees for POA Disclosure Packets

House Bill 1031 imposes changes to the fees that may be charged by property owners' associations for preparation of disclosure packets. The POA distinguishes between the fees that may be charged by a professionally managed¹ association and a non-professionally managed association. Effective July 1, 2018, a non-professionally managed association may charge the same fees a professionally managed association may charge for specific services associated with the disclosure packet **if the association provides the disclosure packet electronically, if requested**. In addition, this legislation makes clear that **no association can collect the fees** authorized by the Code unless the association is (i) registered with the CIC Board, (ii) current in filing its most recent annual report, and (iii) current in paying any annual payments or assessments due to the CIC Board.

¹"Professionally managed" means a common interest community that has engaged (i) a common interest community manager to provide management services to the community or (ii) a person as an employee for compensation to provide management services to the community, other than a resident of the community who provides bookkeeping, billing, or recordkeeping services for that community. (see § 55-509 in the POA Act) As referenced above, changes to the POA Act in 2018 allow non-professionally managed associations to charge such fees in certain circumstances.

PROPERTY OWNERS' ASSOCIATIONS | Updated Maximum Allowable Fees for POA Disclosure Packets and Condominium Resale Certificates

The POA Act and the Condominium Act allow associations to charge certain fees related to preparation of disclosure packets and resale certificates. Because compiling the materials for a disclosure packet or resale certificate involves time, effort, and resources, the law allows the preparer to assess reasonable charges to recover costs, but sets a maximum amount for such fees. To account for inflation, the law authorizes the Board to adjust the maximum fees applicable to POAs that are professionally managed and condominiums every five years based on the Consumer Price Index (CPI). These maximum fees were initially set in 2008, and were previously adjusted in 2013. Effective **January 16, 2018**, the fees were adjusted again to account for inflation over the previous five years. POAs that are not professionally managed are not subject to CPI adjusted fees. However, the Condominium Act does not differentiate fees based on how a unit owners'

association is managed. Updated **maximum fees notices** are available at the Board's website: [http://www.dpor.virginia.gov/CIC-Board/Disclosure Notices/](http://www.dpor.virginia.gov/CIC-Board/Disclosure%20Notices/).

ASSOCIATION REGISTRATIONS | Reduction in Application & Renewal Fees

The CIC Board voted to extend the temporary fee reduction for association renewals. Association renewal fees will remain a **flat fee of \$10** for another year. In addition, the Board also voted to institute the same flat fee of \$10 for initial association registration applications. The \$10 fee applies to applications and renewals received **on or before June 30, 2019**.

REGULATORY ACTIONS | CIC Management Information Fund Regulations

The **CIC Management Information Fund Regulations** (CICMIF) are the regulations that govern the fees and processes associated with association registrations, renewals, and annual report filings. In order to ensure the regulations are up-to-date and include provisions related to associations' registration requirements as well as the Board's authority as it relates to associations, the Board has begun a general review of the regulations. The Board voted to form a stakeholder panel and the **Regulatory Review Committee** is currently scheduled to meet on **September 27, 2018**. Once the Committee adopts a recommendation, it will be presented to the Board for consideration. Once text is adopted by the Board, the proposed text will be filed for Executive Branch Review and public comment.

GUIDANCE DOCUMENTS | Clarification for Time-Share Registrants

Board staff has been working in consultation with representatives from the American Resort Development Association (ARDA) on two **guidance documents** related to registered **time-shares**. The guidance documents were presented to the Board at its June 2018 meeting. The Board adopted the text as developed contingent upon staff distributing the guidance documents for public comment. After receiving no comments, the guidance documents are now final.

Public Offering Statements Delivered by Way of Alternative Media

- Clarifies that the format of a POS can be any tangible medium commonly used for data storage (e.g. CD, flash drive)
- Requires disclosure of the developer's statutory requirement that each potential purchaser must have the POS available for review, along with ample time for questions and answers, prior to execution of the contract
- This disclosure must be provided in either the first page of the POS or the optional public offering statement receipt page outlined in the Board's regulations
- Developer distributing POS by way of alternative media must obtain written consent from the prospective purchaser to receive the POS via alternative media

Determining Value of Blanket Surety Bonds Filed by Developers in Lieu of Escrowing Deposits

- **HB 674** and **SB 443** of the 2018 General Assembly Session amended the Virginia Time-Share Act to allow a developer under certain circumstances the option of maintaining deposits made in connection with the purchase or reservation of a time-share product in either escrow or by securing a bond or letter of credit in lieu of placing deposits in escrow
- The legislation specifies the time-frame for calculating the amount of any blanket letter of credit as May 31st of each calendar year. The legislation did not include such time-frame for calculating the amount of a blanket bond used for the same purpose
- The Board clarified the time-frame for calculating the amount of any blanket bond as May 31st of each calendar year, to coincide with the language applicable to letters of credit

ADDITIONAL INFORMATION | How to Contact Us

Have more questions? Contact the CIC Board office or the Common Interest Community Ombudsman (CICO)!

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